TABLE 1—TYLOSIN FOR INJECTION

Principal ingredient	Quantity	Combined with—	Quantity	Limitations	Indications for use
1. Tylosin	6.25 mg.–12.5 mg. per sinus.			For turkeys; not for laying turkeys; inject 6.25 mg. or 12.5 mg. per sinus, depending on severity of infection; do no tinject within 5 days of slaughter; as tylosin tartrate.	Treatment of infectious sinusitis.
a. Tylosin	6.25 mg.–12.5 mg. per sinus.	Tylosin (in drinking water).	2 gm. per gallon.	For turkeys; administer not more than 5 days in drinking water; do not administer within 5 days of slaughter; as tylosin tartrate.	Maintaining weight gains and feed efficiency in the presence of infectious sinusitis.
2. Tylosin	1.0 mg.–4.0 mg. per pound of body weight.			For swine; administer intramuscularly not more than 3 days; do not administer within 4 days of slaughter; as tylosin base.	Treatment of erysipelas, pneumonia, dysentery (vibrionic), arthritis due to pleuropneumonia-like organisms.

TABLE 2—TYLOSIN IN DRINKING WATER

Principal ingredient	Grams per gallon	Combined with—	Quantity	Limitations	Indications for use
1. Tylosin	2–5			For chickens; not for laying chickens; administer not more than 5 days; do not administer within 24 hours of slaughter; as tylosin tartrate.	Prevention or treatment of chronic respiratory disease (airsac infection).
2. Tylosin	2			For turkeys; administer not more than 5 days in drinking water; do not administer within 5 days of slaughter; as tylosin tartrate.	Maintaining weight gains and feed efficiency in the presence of infectious sinusitis.
3. Tylosin	0.25–1.0			For swine; administer not more than 10 days; withdraw 48 hours prior to slaughter; as tylosin base.	Prevention or treatment of swine dysentery (vibrionic).

TABLE 3—TYLOSIN IN ANIMAL FEED

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1. Tylosin	10–100			For swine; as tylosin phosphate; continuous use as follows:	Growth promotion and feed efficiency.
			Grams per ton		
			10–20	101 lb. to market weight.	
			20–40	41–100 lb. animal weight.	
			20–100	Up to 40 lb. animal weight.	
a. Tylosin	10–100	Hygromycin B	12.0	For swine; withdraw 48 hours prior to slaughter.	§ 121.213(c), Table 2, item 1.

(c) To assure safe use, the label and labeling of the additive, any combination of additives, and any intermediate premix or final feed prepared therefrom, shall bear, in addition to the other information required by the act, the following:

(1) The name of the additive or additives.

(2) A statement of the quantity or quantities of each contained therein.

(3) Adequate directions and warnings for use.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: July 21, 1964.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 64-7454; Filed, July 27, 1964; 8:48 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter VI—Business and Defense Services Administration

[BDSA Reg. 2 (Formerly NPA Reg. 2); Amdt. 7 of July 21, 1964]

BDSA REG. 2—BASIC RULES OF THE PRIORITIES SYSTEM

Reg. 2, Amdt. 7—Change in List A

This amendment is found necessary and appropriate to promote the National Defense, and is issued pursuant to the Defense Production Act of 1950, as amended. In formulation of this amendment, consultation with industry representatives was rendered impracticable because of the need for immediate action.

This amendment conforms BDSA (formerly NPA) Reg. 2 to the delegations of authority made to the Secretary of Commerce and the Secretary of Agriculture, respectively, under Sec. 201(a) of Executive Order 10480 as respects the application of priority and allocations powers under Title I of the Defense Production Act to the sale and delivery of commercial fertilizer for purposes of export. Thus, Item 2(g) of List A of BDSA Reg. 2 is amended to make clear that it is the domestic distribution of commercial fertilizer, as distinct from the sale and delivery of commercial fertilizer for purposes of export, which is excepted from the operation of the basic rules of the priorities system established by that regulation.

Item 2(g) of List A of BDSA (formerly NPA) Reg. 2, as amended, is hereby amended to read as follows:

2(g) Fertilizer, commercial: domestic distribution in form for distribution to users.[a]

(Sec. 704, 64 Stat. 816, as amended, 50 U.S.C. App. 2154; Sec. 1, P.L. 88-343, 78 Stat. 235)

This amendment shall take effect on July 21, 1964.

GEORGE DONAT,
Administrator, Business and Defense Services Administration.

[F.R. Doc. 64-7461; Filed, July 27, 1964; 8:49 a.m.]

Title 41—PUBLIC CONTRACTS

Chapter 1—Federal Procurement Regulations

PART 1-16—PROCUREMENT FORMS

Subpart 1-16.9—Illustration of Forms

Correction

In the revision of the Federal Procurement Regulations published in Part II of the FEDERAL REGISTER dated Friday, July 24, 1964 (F.R. Doc. 64-7333; 29 F.R. 10101), the illustration of page 2 of Standard Form 23A (§ 1-16.901-23A(b)) is incorrect. Page 2 of Standard Form 23A should read as follows:

(b) Page 2 of Standard Form 23A.

the same as if the notice of termination had been issued pursuant to such clause. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the Government, the contract shall be equitably adjusted to compensate for such termination and the contract modified accordingly; failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(f) The rights and remedies of the Government provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

6. DISPUTES

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the head of the agency involved. The decision of the head of the agency or his duly authorized representative for the determination of such appeals shall be final and conclusive. This provision shall not be pleaded in any suit involving a question of fact arising under this contract as limiting judicial review of any such decision to cases where fraud by such official or his representative or board is alleged: *Provided, however*, that any such decision shall be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This Disputes clause does not preclude consideration of questions of law in connection with decisions provided for in paragraph (a) above. Nothing in this contract, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

7. PAYMENTS TO CONTRACTOR

(a) The Government will pay the contract price as hereinafter provided.

(b) The Government will make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates approved by the Contracting Officer. If requested by the Contracting Officer, the Contractor shall furnish a breakdown of the total contract price showing the amount included therein for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates the Contracting Officer, at his discretion, may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site may also be taken into consideration (1) if such consideration is specifically authorized by the contract and (2) if the Contractor furnishes satisfactory evidence that he has acquired title to such material and that it will be utilized on the work covered by this contract.

(c) In making such progress payments, there shall be retained 10 percent of the estimated amount until final completion and acceptance of the contract work. However, if the Contracting Officer, at any time after 50 percent of the work has been completed, finds that satisfactory progress is being made, he may authorize any of the remaining progress payments to be made in full. Also, whenever the work is substantially complete, the Contracting Officer, if he considers the amount retained to be in excess of the amount adequate for the protection of the Government, at his discretion, may release to the Contractor all or a portion of such excess amount. Furthermore, on completion and acceptance of each separate building, public work, or other division of the contract, on which the price is stated separately in the contract, payment may be made therefor without retention of a percentage.

(d) All material and work covered by progress payments made shall thereupon become the sole property of the Government, but this provision shall not be construed as relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work, or as waiving the right of the Government to require the fulfillment of all of the terms of the contract.

(e) Upon completion and acceptance of all work, the amount due the Contractor under this contract shall be paid upon the presentation of a properly executed voucher and, after the Contractor shall have furnished the Government with a release, if required, of all claims against the Government arising by virtue of this contract, other than claims in stated amounts as may be specifically excepted by the Contractor from the operation of the release. If the Contractor's claim to amounts payable under the contract has been assigned under the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), a release may also be required of the assignee.

8. ASSIGNMENT OF CLAIMS

(a) Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), if this contract provides for payments aggregating $1,000 or more, claims for moneys due or to become due the Contractor from the Government under this contract may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. Unless otherwise provided in this contract, payments to an assignee of any moneys due or to become due under this contract shall not to the extent provided in said Act, as amended, be subject to reduction or setoff. (The preceding sentence applies only if this contract is made in time of war or national emergency as defined in said Act; and is with the Department of Defense, the General Services Administration, the Atomic Energy Commission, the National Aeronautics and Space Administration, the Federal Aviation Agency, or any other department or agency of the United States designated by the President pursuant to Clause 4 of the proviso of section 1 of the Assignment of Claims Act of 1940, as amended by the Act of May 15, 1951, 65 Stat. 41.)

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "Top Secret," "Secret," or "Confidential," be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive the same. However, a copy of any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

9. MATERIAL AND WORKMANSHIP

(a) Unless otherwise specifically provided in this contract, all equipment, material, and articles incorporated in the work covered by this contract are to be new and of the most suitable grade for the purpose intended. Unless otherwise specifically provided in this contract, reference to any equipment, material, article, or patented process, by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition, and the Contractor may, at his option, use any equipment, material, article, or process which, in the judgment of the Contracting Officer, is equal to that named. The Contractor shall furnish to the Contracting Officer for his approval the name of the manufacturer, the model number, and other identifying data and information respecting the performance, capacity, nature, and rating of the machinery and mechanical and other equipment which the Contractor contemplates incorporating in the work. When required by this contract or when called for by the Contracting Officer, the Contractor shall furnish the Contracting Officer for approval full information concerning the material or articles which he contemplates incorporating in the work. When so directed, samples shall

2

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

SUBCHAPTER B—LAND TENURE MANAGEMENT (2000)

[Circular No. 2151]

PART 2240—SALES AND EXCHANGES

Subpart 2243—Public Sales

On pp. 14271 and 14272 of the FEDERAL REGISTER of December 25, 1963, there were published a notice and text of a proposed revision of Part 250 (now Subpart 2243) of Title 43, Code of Federal Regulations.

The revised regulations incorporate principles of contract and real property law and practices and provide (1) that bids are offers to purchase and that no rights accrue or obligations arise until there has been an acceptance by the Secretary, (2) that a non-refundable fee of $25 must accompany each application, together with an additional minimum payment of $50, returnable in certain circumstances, to defray the cost of publication, (3) that publication of notice will be handled by the Bureau of Land Management, thus providing for uniformity and ease of handling, (4) that the authorized officer will determine and announce the specific time requirement for submittal of preference right proof, and (5) that lawyer's title certificates are acceptable as preference right proof.

Interested persons were given 30 days within which to submit written comments, suggestions or objections to the proposed revision. The comments received have been carefully considered. The following suggested changes are being incorporated into the regulation:

1. All sections are rearranged and renumbered to conform to the format of 43 CFR, Special Supplement as of April 1, 1964.

2. The citation of authority is changed to read: "Section 2455 of the Revised Statutes, as amended (43 U.S.C. 1171)."

3. The language of § 2234.1–5(b) has been revised in order to identify clearly the time of acceptance of an offer to purchase (bid), to clarify the authority of the authorized officer concerning the acceptance of bids, and to delete a procedural instruction concerning public notice.

4. The words "on the prescribed form" are deleted from § 2243.1–2(a) because they involve procedural detail unnecessary in the regulations.

5. A typographical error in the second sentence of § 2243.1–2(b) is corrected so that "purchase" will read "purchaser."

6. The words "toward publication costs" are inserted between the words "deposited" and "pursuant" in the second sentence of § 2243.1–3(c) to specify the sum which may be deducted by a bidder by mail from the amount that must accompany his bid.

7. In the third sentence of § 2243.1–3 (c) the word "hour" is replaced by the word "time", to accommodate to postal practices.

8. A provision is added to § 2243.1–3 (c) to cover the situation where two or more identical bids by mail bear the same time and date stamp.

9. In the third sentence of § 2243.1–4 (b)(2), the word "by" is inserted between the words "or" and "a duly qualified attorney" for clarity of statement, and the word "showing" is changed to read "stating on the basis of an examination of title records", in order to identify the basis on which an abstract or certificate of title must be issued in order to be acceptable.

10. The authority of the authorized officer to grant extensions of time within which a preference right applicant must show proof of title to contiguous lands is made clear by language added to § 2243.1–4(b)(2).

11. The definition of "legal subdivision," the greater part of which is mountainous or too rough for cultivation has been deleted and the substance of the definition incorporated into § 2243.0–7 (b).

12. Language has been added to § 2243.0–7(c) that clearly asserts that the fact that lands which are mineral in character will not be sold does not imply that lands not mineral in character will be sold regardless of whether they possess some present or prospective mineral value.

13. A clause has been added to the § 2243.2 to establish that segregation of lands becomes effective on the date of first publication of notice of sale.

14. Language added to § 2243.1–5(c) sets out the authority of the Secretary to cancel a sale, even after issuance of final certificate, because of fraud or lack of knowledge of facts or conditions which would have been grounds for refusing to consummate the sale.

The revised regulations are adopted as set forth below and will become ef-

fective upon publication in the FEDERAL REGISTER.

§ 2243.0–2 Objectives.

The program of the Secretary of the Interior in the administration of section 2455 of the Revised Statutes, as amended (43 U.S.C. 1171), hereinafter referred to as the Act, is to take into consideration the criteria set out in Part 2410 and to order into market on an orderly basis lands subject to the Act which are more valuable or proper for non-Federal than Federal ownership.

§ 2243.0–3 Authority.

Section 2455 of the Revised Statutes, as amended (43 U.S.C. 1171) authorizes the Secretary of the Interior to order into market and sell at public auction certain public domain as described in § 2243.0–7.

§ 2243.0–5 Definitions.

As used in the regulations of this part:

(a) The terms "public domain" and "public land" mean vacant, unappropriated, and unreserved public lands, or public lands withdrawn by E.O. 6910 of November 26, 1934, as amended, or E.O. 6964 of February 5, 1935, as amended, and not otherwise withdrawn or reserved, or public lands within grazing districts established under section 1 of the Act of June 28, 1934 (48 Stat. 1269), as amended, and not otherwise withdrawn or reserved. Such lands must be officially surveyed.

(b) The terms "appraised value" and "appraised price" mean the amount of money specified as the minimum acceptable bid in the public notice ordering lands into market under the regulations of this part.

(c) The terms "contiguous lands" and "contiguous legal subdivisions" mean lands or legal subdivisions having a common boundary.

(d) The term "isolated or disconnected tract" means a tract of one or more contiguous legal subdivisions completely surrounded by lands held in non-Federal ownership or so effectively separated from other federally-owned lands by some permanent withdrawal or reservation as to make its use with such lands impracticable. A tract is considered isolated if the contiguous lands are all patented, even though there are other public lands cornering upon the tract. The term "cornering" refers to lands having a common survey corner but not a common boundary.

(e) The term "mineral in character" refers to lands where the mineral is ordinarily in sufficient quantity to add to their richness and to justify expenditures for its extraction. A "mineral" is a substance that (1) is recognized as mineral, according to its chemical composition, by the standard authorities on the subject or (2) is classified as mineral product in trade or commerce; or (3) possesses economic value for use in trade, manufacture, the sciences, or in the mechanical or ornamental arts. However, the word "mineral", for the purposes of the regulations of this part, does not include those that must be reserved to the United States pursuant to the regulations in §§ 2023.0–3 to 2023.5–4.

(f) The term "proper land office" means the land office of the Bureau of Land Management for the State or Land district in which the lands are situated. For lands in States for which there are no land offices, it means the Bureau of Land Management, Washington, D.C., 20240, except that for lands in North Dakota or South Dakota, it means the land office in Billings, Montana, for lands in Nebraska or Kansas, the land office in Cheyenne, Wyoming, and for lands in Oklahoma, the land office at Sante Fe, New Mexico.

(g) The word "person" includes but is not necessarily limited to individual, partnership, association or corporation.

(h) The word "bid" means a written or oral "offer to purchase."

§ 2243.0–7 Lands subject to sale.

(a) The Act authorizes the Secretary of the Interior to order into market and sell at public auction for not less than the appraised value any isolated or disconnected tract or parcel of the public domain not exceeding 1520 acres which, in his judgment, it would be proper to expose for sale.

(b) The Act also authorizes the Secretary in his discretion, upon application of any person who owns land or holds a valid entry adjoining such tract, to order into market and sell at public auction for not less than their appraised value any legal subdivision or contiguous legal subdivisions of public land not exceeding 760 acres, the greater part of each of which subdivisions is mountainous or too rough for cultivation.

(c) The Secretary of the Interior has full discretion to determine whether lands should be ordered into market under the regulations of this part. Factors that will be taken into consideration in making these determinations are described in Part 2410. Lands which are mineral in character will not be sold, but this is not to imply that lands which are not mineral in character, as defined in paragraph (e) of § 2243.0–5, will be sold regardless of whether they possess some mineral value, present or prospective.

§ 2243.1 Procedures.

§ 2243.1–1 Petition; application.

(a) Applications, together with petitions as required under Part 2410 (hereinafter called petition-applications), to have tracts ordered into market under the regulations of this part must be made on forms approved by the Director, properly executed and filed in the proper land office.

(b) Each petition-application must be accompanied by a nonrefundable application service charge of $25 and by an additional sum of $50 to defray the costs of publication. This $50 deposit will be returned to the applicant if the authorized officer declines to order lands into market, decides to reject all bids, or sells all the lands to persons other than the applicant. Where the authorized officer sells only part of the lands to the applicant and part to one or more other persons, he will return to the applicant such portion of the deposit as the officer deems equitable.

§ 2243.1–2 Notice; publication, cost.

(a) When the authorized officer determines that lands shall be ordered into market under the regulations in this part, he will have a notice thereof published weekly for five consecutive weeks in an appropriate newspaper in accordance with § 1824.4 of this chapter.

(b) Where lands are sold pursuant to notice prescribed in paragraph (a) of this section, the purchaser or purchasers of the lands will be required to pay the cost of publication of the notice. Where more than one purchaser is involved in a transaction, the costs will be shared in such proportions as the authorized officer deems equitable.

§ 2243.1–3 Bidding: time; place; simultaneous bids.

(a) The time and place for submitting the bids will be specified in the public notice required by § 2243.1–2.

(b) Bids may be made by the principal or his agent, either personally or by mail.

(c) Bids sent by mail will be considered only if received at the place and prior to the hour fixed in the notice. These bids must be accompanied by certified checks, post office money orders, bank drafts, or cashier's checks made payable to the Bureau of Land Management for the amounts of the bids plus the cost of publication (see § 2243.1–2), less any amount previously deposited toward publication costs pursuant to paragraph (b) of § 2243.1–1 and must be enclosed in sealed envelopes which must be marked as prescribed in the notice. In the event that valid bids of the same amount are received through the mail from two or more persons, the first in time as shown by the time and date noted by the post office on the envelope will be considered the highest of those bids. If two or more envelopes containing valid bids of the same amount bear the same time and date stamp, they will be considered simultaneously filed. The determination of which is the highest of these bids will be by drawing.

§ 2243.1–4 Action at close of bidding.

(a) *High bidder.* The person who is declared by the authorized officer to be the high bidder shall be bound by his bid and the regulations in this part to complete the purchase in accordance therewith unless his bid is rejected or he is released therefrom by the authorized officer.

(b) *Preference rights.* (1) The owners of contiguous lands will have a period of 30 days, commencing on the day after the close of bidding and the announcement of the amount of the highest bid received, in which to offer to purchase the lands at the highest bid price, or at three times the appraised value, if three times such appraised value is less than the highest bid price. Failure of a preference-right applicant to submit to the authorized officer prior to the termination of the 30-day period an amount equal to his offer plus the cost of publication (see § 2243.1–2) will cause the preference right to be lost as to that particular public sale.

(2) Each preference-right applicant must, within the time specified by the

authorized officer, or such extensions of time as he may grant, submit proof of ownership of the whole title to the contiguous lands, that is, he must show that he had the whole title in fee on the last day of the 30-day period. The authorized officer will specify that date. Such proof must consist of (i) a certificate of the local recorder of deeds, or (ii) an abstract of title or a certificate of title prepared and certified by a title company or by an abstracting company, or by a duly qualified attorney authorized to practice in the State stating on the basis of an examination of title records that the applicant owned adjoining land in fee simple on the last day of the 30-day period. If the preference-right applicant does not own adjoining land at the close of the preference-right period, his preference-right claim will be lost. After a case has been closed, the data filed pursuant to this section may be returned by the authorized officer.

(3) Where two or more applicants apply to exercise the preference right provided for by the Act, to the same tract of land, they will be afforded an opportunity to agree among themselves upon a division of the lands. In the absence of an agreement, an equitable division of the land will be made, taking into consideration such factors as (i) the equalizing of the number of acres between the applicants, (ii) desirable land use, based on topography, land pattern, location of water, proper development of the lands, and similar factors, (iii) legitimate historical use, including construction and maintenance of authorized improvements, and (iv) extent of contiguity and duration of ownership of adjacent lands. If considerations dictate, all of the lands may be awarded to one of the applicants.

§ 2243.1–5 Action at close of preference period; acceptance of offer.

(a) After the close of the preference period described in § 2243.1–4(b), the authorized officer will determine whether the lands will be sold. If he determines that they will be sold and if there are no qualified preference applicants or if there is only one qualified preference applicant, he will accept the bid of the highest bidder, in the first instance, or the offer of the preference applicant, in the second. If there are two or more preference applicants, he will give them the opportunity to agree as to the division of the lands (paragraph (b) of § 2243.1–4) and to amend their offers accordingly. If no agreement is reached, he will determine the division of the lands and give the applicants an opportunity to amend their offers accordingly.

(b) The acceptance of an offer to purchase (bid) will be made by the issuance of a final certificate to the bidder. Until the final certificate is issued, the right is reserved to the authorized officer at any time to determine that the sale should not be held, that the lands should not be sold, or that any and all bids should be rejected. Generally, if the high bid is not less than the fair market value of the land on the date for receiving bids as specified in the public notice issued pursuant to § 2243.1–2(a), any appreciation or depreciation thereafter in value of the lands will not necessarily be a basis for a determination that the lands will not be sold. Sales will not be consummated, in the discretion of the authorized officer, when, for example:

(1) Circumstances reveal that the highest bid otherwise acceptable is less than the fair market value of the land on the date of the sale set in the public notice thereof, or

(2) An appropriate public requirement for the lands is identified subsequent to the public notice, or

(3) Collusive or other activities have hindered or restrained free and open bidding.

(c) The petitioner-applicant or any bidder has no contractual or other rights as against the United States, and no action taken will create any contractual or other obligations of the United States until the final certificate is issued. Issuance of the final certificate, however, will not preclude the Secretary of the Interior from vacating the sale in whole or in part because of fraud not disclosed at the time of issuance of the final certificate or because of lack of knowledge of facts or conditions existing at that time which, if known prior to issuance of the final certificate, would have been grounds for refusing to consummate the sale (see paragraph (b) of this section).

(d) Under the regulations in this chapter relating to grazing, no lands embraced in a grazing lease, license or permit may be sold unless and until the prospective purchaser has made provision for compensation for any grazing improvements placed on the lands.

§ 2243.2 Effect of application.

The filing of a petition-application in conformity with the regulations in this part will not segregate the lands applied for from other petition-applications under the public land laws or defeat a prior valid right initiated under any such law. However, the publication of a notice pursuant to § 2243.1–2 placing lands into market will segregate such lands from all appropriations, including locations under the mining laws, and from other petitions and applications, effective on the date of the first publication of the notice.

STEWART L. UDALL,
Secretary of the Interior.

JULY 21, 1964.

[F.R. Doc. 64–7429; Filed, July 27, 1964; 8:46 a.m.]

Title 46—SHIPPING

Chapter III—Great Lakes Pilotage Administration; Department of Commerce

PART 401—GREAT LAKES PILOTAGE REGULATIONS

Miscellaneous Amendments

On March 19, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 3536) setting forth the text of proposed amendments to the Great Lakes Pilotage Regulations.

Interested persons submitted data and views, orally and in writing, at a public hearing in Detroit, Michigan, on April 13 and 14, 1964. Interested persons also submitted written data and views within the thirty days allowed after the close of the hearing in response to requests of interested persons during the hearing.

Section 401.220(e)(3) promulgated by order of the Administrator with omission of notice and public procedure effective noon June 9, 1964, is renumbered without change of text as § 401.220(e)(2).

The proposed change of rates for District No. 1 under § 401.400(a)(1) and the flat rate proposed in lieu of reimbursable travel expenses under § 401.410 have not been adopted pending agreement of Canada under the provisions of the Memorandum of Arrangement, Great Lakes Pilotage. The proposed editorial changes have been adopted.

After consideration of all relevant matter submitted the following amendments are hereby adopted.

Subpart A—General, is amended to add:

§ 401.120 Federal reservation of pilotage regulations.

No state, municipal, or other local authority shall require the use of pilots or regulate any aspect of pilotage in any of the waters specified in the Act. Only those persons registered as United States Registered Pilots or Canadian Registered Pilots as defined in this subpart may render pilotage services on any vessel subject to the Act and the Memorandum of Arrangements, Great Lakes Pilotage.

In Subpart B—Registration of Pilots: Section 401.210 is amended to read as follows:

§ 401.210 Requirements and qualifications for registration.

(a) No person shall be registered as a United States Registered Pilot unless:

(1) He holds an unlimited master's license authorizing navigation on the Great Lakes and suitably endorsed thereon for pilotage on routes specified therein, issued by the head of the Department in which the Coast Guard is operating.

(2) He is a citizen of the United States.

(3) He is of good moral character and temperate habits.

(4) He is physically competent to perform the duties of a U.S. Registered Pilot and meets the medical requirements prescribed by the Administrator.

(5) He has not reached the age of 65.

(6) He possesses a validated Merchant Mariner's Document issued by the Coast Guard.

(7) He agrees that he will be continuously available for service under such terms and conditions as may be approved or prescribed by the Administrator.

(8) He has complied with the requirements set forth in § 401.220(b) for Applicant Pilots if applying for registration for waters in which a pilotage pool is authorized.

(9) He agrees to comply with all applicable provisions of this part and amendments thereto.

(b) Notwithstanding the provisions of subparagraph (5) of paragraph (a) of this section, the Administrator may, if he determines that it is in the public interest, issue a Certificate of Registration to a person who has reached the age of 65 if satisfactory evidence is furnished that such person is physically competent to perform the duties of a Registered Pilot.

(c) Any person registered as a United States Registered Pilot pursuant to the provisions of this part whose application contains false or misleading statements furnished by the applicant in furtherance of his application shall be in violation of these regulations and may be proceeded against under § 401.250(a) or § 401.500.

Section 401.211 is amended to read as follows:

§ 401.211 Requirements for training of Applicant Pilots.

(a) The Administrator shall determine the number of Applicant Pilots required to be in training by each Association authorized to form a pool in order to assure an adequate number of Registered Pilots. No Applicant Pilot shall be selected for training unless:

(1) He meets the requirements and qualifications set forth in subparagraphs (1) through (4), (6), and (7) of § 401.210 (a).

(2) He shall not have reached the age of 60.

(3) He has within five (5) years preceding date of application satisfactorily served (i) on vessels of not less than 4,000 gross tons as master for one year or one season of eight (8) months as master on enrolled vessels on the Great Lakes or (ii) on vessels of not less than 4,000 gross tons as chief mate for two years or two seasons of eight months each as chief mate on enrolled vessels on the Great Lakes or (iii) on vessels of not less than 2,500 gross tons as a licensed deck officer for four years or four seasons of eight months each as a licensed deck officer on enrolled vessels on the Great Lakes or (iv) as a pilot of oceangoing vessels of not less than 4,000 gross tons for one year under a government-regulated, military, or industrially controlled pilotage service.

(4) He possesses a radar observer competency certificate or equivalent U.S. Coast Guard endorsement.

Section 401.220 is amended to read as follows:

§ 401.220 Registration of pilots.

(a) The Administrator shall determine the number of pilots required to be registered in order to assure adequate and efficient pilotage service in the United States waters of the Great Lakes and to provide for equitable participation of United States Registered Pilots with Canadian Registered Pilots in the rendering of pilotage services.

(b) Registration of pilots required for waters designated by the President pursuant to section 3 of the Great Lakes Pilotage Act of 1960 where pilotage pools have been authorized pursuant to Subpart C shall be made from among those Applicant Pilots who have (1) completed the minimum number of trips prescribed by the Administrator over the waters for which application is made on oceangoing vessels, in company with a Registered Pilot, within one year of date of application; (2) completed a course of instruction for Applicant Pilots prescribed by an association authorized to establish a pilotage pool, which has been approved by the Administrator; and (3) received recommendations from member Registered Pilots of the association upon completion of the course of instruction.

(c) Registration of pilots for waters of the Great Lakes other than those for which pilotage pools have been authorized pursuant to Subpart C of this part shall be made from applicants who have (1) the greatest number of years of experience, and have been actively engaged in piloting oceangoing vessels over the waters for which application is made; (2) qualified as Applicant Pilots under paragraph (b) of this section and have made the greatest number of trips in the waters for which application is made in connection with such qualifications; (3) the greatest number of years of experience in piloting oceangoing vessels in other waters; and (4) the greatest number of years as a pilot.

(d) Subject to the provisions of paragraphs (a), (b), and (c) of this section, a pilot found to be qualified under this subpart shall be issued a Certificate of Registration, valid for a term of two (2) years or until the expiration of his unlimited master's license or until the pilot reaches age 65, whichever occurs first, provided, however, a pilot who has reached the age of 65 may be issued a Certificate of Registration valid for a term of one (1) year or until the expiration of his unlimited master's license, whichever occurs first.

(e) Notwithstanding the provisions set forth in paragraphs (a), (b), (c), and (d) of this section the Administrator may, when necessary to assure adequate and efficient pilotage service, (1) issue a Certificate of Registration for a period of less than two (2) years to an Applicant Pilot for service as a Registered Pilot on waters which are within the dispatching responsibility of the authorized pool of which he is a member; and (2) issue a Certificate of Registration for a period of less than one (1) year to a retired Registered Pilot for service as a Registered Pilot on the undesignated water within the dispatching authority of the authorized pool under which he previously served, provided that such person meets all of the provisions of § 401.210(a) except subparagraphs (5) and (8) thereof.

Section 401.230 is amended to read as follows:

§ 401.230 Certificates of Registration.

(a) A Certificate of Registration shall describe the part or parts of the Great Lakes within which the pilot is authorized to perform pilotage services and such description shall not be inconsistent with the terms of the pilotage authorization in his unlimited master's license.

(b) A Certificate of Registration shall not authorize the holder to board any vessel, or to serve as a pilot of any vessel, without the permission of the owner or master. A Certificate of Registration shall be in the possession of a pilot at all times when he is in the service of a vessel, and shall be displayed upon demand of the owner or master, any United States Coast Guard officer or inspector, or a representative of the Administrator.

(c) A Certificate of Registration evidencing registration of the holder is the property of the Great Lakes Pilotage Administration and it shall not be pledged, deposited, or surrendered to any person except as authorized by this part. A Certificate of Registration may not be photostated or copied. A Certificate which has expired without renewal, or renewal of which has been denied under the provisions of this section, shall be surrendered to the Administrator upon demand.

(d) An application for replacement of a lost, damaged or defaced Certificate of Registration shall be made on the form to be prescribed by the Administrator. A replacement fee of five dollars ($5.00) by check or money order, drawn to the order of the U.S. Department of Commerce shall accompany any such application. A Certificate issued as a replacement for a lost, damaged or defaced Certificate shall be marked so as to indicate that it is a replacement. Upon receipt of a Certificate issued as a replacement, the damaged or defaced Certificate shall be surrendered to the Administrator.

(e) A Certificate of Registration may be voluntarily surrendered to the Administrator by a Registered Pilot at any time such pilot no longer desires to perform pilotage services; however, in the event such Registered Pilot has been served with a notice of hearing pursuant to § 401.250, a voluntary surrender of the Certificate of Registration shall be at the option of the Administrator.

(f) The Administrator shall advise the Coast Guard of the name, Coast Guard license number, and registration number of each pilot who is issued a Certificate of Registration.

Section 401.240 is amended to read as follows:

§ 401.240 Renewal of Certificates of Registration.

(a) An application for renewal of a Certificate of Registration shall be made on the form prescribed by the Administrator, and shall be filed with the Administrator at least fifteen (15) days prior to the expiration date of the existing Certificate. A renewal fee of five dollars ($5.00) by check or money order, drawn to the order of the U.S. Department of Commerce, shall accompany an application for renewal of registration, which will be refunded if registration is not renewed. Failure of a Registered Pilot to comply with these requirements or file a complete and sufficient application may constitute cause for denying renewal of the Certificate of Registration.

(b) No Certificate of Registration shall be renewed unless the applicant for renewal thereof meets the requirements and qualifications set forth in

§ 401.210 for issuance of an original Certificate of Registration; excepting that compliance with § 401.210(a)(4) shall not be required if the examination was satisfactorily passed on a previous application for registration within six (6) months next preceding the date of application for renewal.

(c) If the Administrator determines that there is good cause for denying renewal of a Certificate of Registration, the applicant shall be notified in writing of such determination and the cause thereof. The applicant may thereupon apply within fifteen (15) days of the receipt of such notice for a hearing in regard to the cause for the denying of a renewal of the Certificate, which hearing shall be granted.

(d) In any case in which the applicant has made timely and sufficient application for renewal of his registration, no such registration shall expire until such application shall have been finally determined by the Administration unless the public health, interest, or safety requires otherwise.

(e) Upon receipt of a renewal Certificate of Registration, the expired Certificate shall be surrendered to the Administrator.

Section 401.250 is amended to read as follows:

§ 401.250 Suspension and revocation of Certificates of Registration.

(a) A Certificate of Registration issued pursuant to the provisions of this part may be suspended or revoked by the Administrator upon a determination by him on the record, after opportunity for a hearing in accordance with the Administrative Procedure Act (5 U.S.C. 1001 et seq.), that the pilot has violated any provision of this chapter or is no longer eligible for registration.

(b) Notwithstanding the provisions of paragraph (a) of this section, the basis for suspension or revocation of a Certificate of Registration shall not extend to or include matters which may be the basis for suspension or revocation of the pilot's unlimited master's license by the Coast Guard under section 4450, Revised Statutes (46 U.S.C. 239), or under any law or regulation administered or prescribed by the Coast Guard, except that suspension or revocation by the Coast Guard of such license shall operate as an automatic suspension or revocation of a Certificate of Registration.

(c) When a Certificate of Registration which is about to expire is suspended, the renewal of such certificate may be withheld until the expiration of the period of suspension.

(d) The Administrator shall advise the Coast Guard of the name, Coast Guard license number, and registration number of each pilot whose Certificate of Registration has been suspended or revoked.

(e) In cases of willfulness or those in which the public health, interest, or safety requires, a pilot registered pursuant to the provisions of this part may be denied dispatch for a period not in excess of thirty (30) days pending investigation by the Administration or appropriate agency having jurisdiction in the matter.

In Subpart C—Establishment of Pools by Voluntary Associations of United States Registered Pilots:

Section 401.320 is amended to read as follows:

§ 401.320 Requirements and qualifications for authorization to establish pools.

No voluntary association shall be authorized to establish a pool unless:

(a) The Administrator determines that a pool is necessary for the efficient dispatching of vessels and the providing of pilotage services in the area concerned.

(b) The stock, equity, or other financial interest of the voluntary association, with right of control, is held only by member registered pilots.

(c) The voluntary association establishes that it possesses the ability, experience, financial resources, and other qualifications necessary to enable it to operate and maintain an efficient and effective pilotage service.

(d) The voluntary association agrees that:

(1) Pilotage services will be provided on a first-come, first-serve basis to vessels giving proper notice of arrival time to the pilot station, except that pilots will not be required to board vessels which do not provide safe boarding facilities;

(2) It will submit working rules for approval of the Administrator;

(3) It will adopt and use the Uniform System of Accounts, Part 403 of this chapter, and such other accounting procedures and reports as may be prescribed by the Administrator;

(4) It will be subject to audit and inspection by the Administrator, and will submit annually at its own expense an audit report prepared by an independent certified public accountant;

(5) It will be subject to such other provisions as may be prescribed by the Administrator governing the operation of and the costs which may be charged in connection with the pools;

(6) It will coordinate on a reciprocal basis its pool operations with similar pool arrangements established by the Canadian Government and pursuant to the provisions of the United States-Canada Memorandum of Arrangements, Great Lakes Pilotage, or any other arrangements established by the United States and Canadian Governments.

In Subpart D—Rates, Charges and Conditions for Pilotage Services;

Section 401.400 is amended to read as follows:

§ 401.400 Rates and charges on designated waters.

(a) Except as provided under § 401.420 the following rates and charges shall be payable for all services performed by United States or Canadian Registered Pilots in the following areas of the United States waters of the Great Lakes described in § 401.300, pursuant to the Memorandum of Arrangements, Great Lakes Pilotage.

(1) *District No. 1.*

(i) Snell Lock to Cape Vincent	$200
(ii) Trips commencing or terminating at any intermediate point within the District, an amount computed on a pro rata basis set forth in (i) according to the distance piloted shall be charged as pilotage dues with a minimum charge therefor of	50

(2) *District No. 2.*

(i) The Welland Canal	200
(ii) Trips commencing or terminating at any intermediate point within the Welland Canal, an amount computed on the basis of $5 for each mile of distance piloted plus $15 for each lock transited except that the minimum charge for such part pilotage shall be	50
and the maximum charge for such part pilotage shall not exceed	200
(iii) Southeast Shoal (pilots board at the Welland Canal) to Lake Huron Lightship (includes direct transit of undesignated Lake Erie waters)	150
(iv) Southeast Shoal (pilots board at Welland Canal) to any point on Lake Erie west of Southeast Shoal (includes direct transit of undesignated Lake Erie waters)	95
(v) Southeast Shoal (pilots board at the Welland Canal) to any point on the Detroit River (includes direct transit of undesignated Lake Erie waters)	95
(vi) Any point on Lake Erie west of Southeast Shoal to any point on the St. Clair River or to Lake Huron Lightship	150
(vii) Any point on Lake Erie west of Southeast Shoal to any point on the Detroit River	95
(viii) Any point on the Detroit River to any point on the St. Clair River or to Lake Huron Lightship	95
(ix) Any point on the Detroit River or the St. Clair River to any point on the same river, or from any point on Lake Erie west of Southeast Shoal to any other point on Lake Erie west of Southeast Shoal	50

(3) *District No. 3.*

(i) Detour Reef Light to Gros Cap Reefs Light	200
(ii) Detour Reef Light to Sault Ste. Marie, Mich. or Sault Ste. Marie, Ontario	165
(iii) Detour Reef Light to Algoma Steel Corp. Wharf at Sault Ste. Marie, Ontario	200
(iv) Sault Ste. Marie, Mich. or Sault Ste. Marie, Ontario, including the Algoma Steel Corp. Wharf to Gros Cap Reefs Light	75
(v) Harbor movement of vessels within District No. 3, per movement	50

(b) When a vessel in transit of a District puts into a port for the purpose of loading or discharging cargo, or otherwise interrupts her passage through the District for the convenience of the vessel, excluding ice, weather and traffic delay, and the pilot remains on board for the convenience of the vessel, an additional charge of $5 per hour, with a maximum of $50 for each 24-hour period, shall be payable.

Section 401.410 is amended to read as follows:

§ 401.410 Rates and charges on undesignated waters.

Except as provided under § 401.420 the rates or charges for all pilotage services performed by United States or Canadian Registered Pilots in undesignated waters, other than the direct transit of Lake Erie, covered by the rates as specified in District No. 2, paragraphs (a) (2) (iii), (iv), and (v) of § 401.400, payable for each 24-hour period or part thereof shall be $50, plus a charge of $25 for a harbor moveage, or for docking or undocking the vessel upon arrival or departure, if performed by the pilot plus travel expenses reasonably incurred by the pilot both in joining the vessel and in returning to his base.

Section 401.420, amend title to read as follows:

§ 401.420 Cancellation or delay in rendition of services on designated or undesignated waters.

A new § 401.431 is added to read as follows:

§ 401.431 Disputed charges.

(a) Any rate or charge applied against any vessel, owner, or master thereof by a registered pilot which the owner or master disputes as a charge prohibited by § 401.430, may be appealed to the Administrator for an advisory opinion as to whether such rate or charge is a prohibited charge.

(b) The appeal shall be in writing and set forth the amounts and description of the rates and charges disputed. The appeal must be supported by evidence that a reasonable attempt has been made to resolve the matter between the parties and that a bona fide controversy exists.

(c) The respondent shall be furnished a copy of the appeal and be notified by the appellant that the matter has been appealed for an advisory opinion.

(d) The respondent shall be allowed a reasonable time, not less than twenty (20) days, in which to file with the Administrator and the appellant any data or arguments desired to be submitted in further defense of the disputed rates and charges.

(e) The Administration shall consider all relevant matter presented and issue an advisory opinion which shall be accompanied by an express recital that all relevant material received has been considered. The advisory opinion shall set forth the rates and charges in dispute, a discussion of the facts and relevant material considered, and a statement of opinion.

(f) When it is found that the disputed rates and charges, in the opinion of the Administrator, are charges prohibited by § 401.430, the respondent shall have a reasonable time, but not more than thirty (30) days in which to refund moneys, adjust invoices, and otherwise conform to the advisory opinion.

(g) Failure or refusal to comply with the advisory opinion within the time allowed may form a basis for a determination that there is a violation of the Great Lakes Pilotage Regulations subject to the provisions of § 401.500.

Section 401.440 is amended to read as follows:

§ 401.440 Advance payment of charges.

Subject to the approval of the Administrator, a United States or Canadian Registered Pilot performing pilotage services in accordance with the rates and charges set forth in this subpart may require advance payment of such rates or charges or a suitable bond securing payment.

In Subpart E—Penalties: Operations Without Registered Pilots:

Section 401.510 is amended to read as follows:

§ 401.510 Operation without Registered Pilots.

(a) Section 8 of the Act provides that:

Notwithstanding any other provision of this Act, a vessel may be navigated in the United States waters of the Great Lakes without a United States or Canadian Registered Pilot when—

(a) The Secretary, or his designee, with the concurrence of the head of the Department in which the Coast Guard is operating, or his designee, notifies the master that a United States or Canadian Registered Pilot is not available, or

(b) The vessel or its cargo is in distress or jeopardy.

(b) Under the provisions of paragraph (a) of this section, a vessel may be navigated when the Secretary or his designee, with the concurrence of the head of the department in which the Coast Guard is operating, or his designee, notifies the master that a United States or Canadian Registered Pilot is not available.

(1) The Administrator, Great Lakes Pilotage Administration, is the designee of the Secretary pursuant to the authorities delegated by Department Order No. 169 effective September 8, 1960. The Commander, Ninth Coast Guard District, Cleveland, Ohio, is the designee of the Commandant, U.S. Coast Guard.

(2) Notification to the master that a pilot is not available will be made by the Administrator through the appropriate pilotage pool either orally or in writing as the circumstances admit and shall not be deemed given until the notice is actually delivered to the vessel by the pilotage pool.

(3) The determination that a pilot is not available will be made on an individual basis and only when a vessel has given proper notice of its pilotage service requirements to the pilotage pool having dispatching jurisdiction at the time. The vessel has no obligation or responsibility with respect to such notification other than properly informing the pilotage pool of its pilotage requirements. However, the failure or delay by the pool in processing a pilotage service request, or refusal or delay by the Administration in notifying the vessel that a pilot is not available, does not constitute constructive notice that a pilot is not available, and the vessel is not relieved by such failure or delay from compliance with the Great Lakes Pilotage Act of 1960.

(4) Upon receipt of proper notice of a vessel's pilotage requirements, the pilotage pool shall then determine from the tour de role the availability of a pilot to render the service required. If no pilot is reasonably expected to be available for service within six hours of the time the pilotage services are required by the vessel, the pilotage pool shall promptly inform the Administrator through the U.S. Coast Guard communications system in the manner as may be prescribed from time to time by the Commandant. The Administrator shall be informed of:

(i) Name and flag of the vessel;

(ii) Route of vessel for which a pilot is not available;

(iii) Time elapsing before a pilot is reasonably expected to become available;

(iv) Whether vessel has an "other officer" on board;

(2) Familiarity of master with route to be transited by the vessel;

(vi) Draft of vessel; and

(vii) Any circumstance of traffic or weather, or condition of the vessel or its cargo which would adversely affect the safety of the vessel in transiting without a pilot.

(5) When a pilot is expected to become available within six hours of the time his services are required, the vessel shall be informed that a pilot is available and the approximate time he will report on duty. However, should any unusual circumstance or condition exist which may justify notification that a pilot is not available in less than six hours, the pilotage pool shall inform the Administrator as in subparagraph (4) of this paragraph, along with the circumstances involved. Every reasonable effort is to be made to prevent delay to the vessel consistent with the intent and purpose of the Great Lakes Pilotage Act of 1960.

(6) Any vessel which requires the services of a pilot and is navigated without a pilot or proceeds prior to receipt of a message that a pilot is not available pursuant to subparagraph (2) of this paragraph shall be reported as in violation of section 7 of the Great Lakes Pilotage Act of 1960 by the pilotage pool to the local Coast Guard unit having jurisdiction. If, the message is received after the vessel proceeds, such message shall not be delivered without concurrence of the Coast Guard officer to whom the violation was reported.

(7) United States pilotage pools informing the Administrator that a pilot is not available for a vessel shall also obtain notice that a pilot is not available from the appropriate Canadian Supervisor of Pilots for those portions of the route which are in Canadian waters in the manner prescribed by them. The notice for Canadian District No. 1 waters shall be obtained from the Supervisor of Pilots, Department of Transport, Cornwall, Ontario, and the notice for Canadian District No. 2 waters shall be obtained from the Supervisor of Pilots, Department of Transport, Port Weller, Ontario. Authority to issue notice for Canadian waters of District No. 3 has been granted to the Administrator by the Department of Transport, Ottawa, and separate notice from Canada for this District is not required until such time as separate Canadian pilotage dispatch facilities may be established.

(8) Notice that a pilot is not available shall not be delivered to any vessel unless the message contains the concurrence of the Commander, Ninth Coast

Guard District, and notice for Canadian waters of Districts No. 1 and No. 2, if required, has been obtained from the appropriate Canadian authority.

(9) In the event of an emergency or any other compelling circumstance, the Administrator may issue, without the specific request for service as provided under subparagraph (3) of this paragraph individual or general notification that a pilot or pilots are not available. Pilotage pools shall advise the Administration of any condition or circumstance coming to their attention which may warrant such a determination.

(74 Stat. 259–262; 46 U.S.C. 216–216i)

Dated: June 23, 1964.

A. T. MESCHTER,
Administrator,
Great Lakes Pilotage Administration.

[F.R. Doc. 64-7433; Filed, July 27, 1964; 8:47 a.m.]

PART 402—GREAT LAKES PILOTAGE RULES AND ORDERS

Requirements and Qualifications for Registration

Subpart B—Registration of Pilots is amended to add a new section as follows:

§ 402.210 Requirements and qualifications for registration.

(a) Pursuant to § 401.210(a)(4) of the Great Lakes Pilotage Regulations, of this chapter, all applicants for original or renewal of registration shall be required to pass a physical examination given by a licensed medical doctor completed on the form contained in the Application for Registration as a U.S. Registered Pilot (SEC–315) furnished by the Great Lakes Pilotage Administration. The examination shall attest to the applicant's visual acuity, color sense, physical condition, and competency to perform the duties of a U.S. Registered Pilot.

(1) Any disease, physical or mental, defect, or impairment to hearing or visual acuity, such as epilepsy, insanity, senility, acute veneral disease, neurosyphilis, hemiplegia, paralysis or missing arm, leg, or eye, muteness or pronounced speech impairment, acute kidney or gastro-enterities disease, extreme obesity, addiction to alcohol or narcotics, acute varicosity of the legs, cardiovascular disease or other disorder which would impair the applicant's ability to be available for service when required and to withstand the rigors of boarding vessels, climbing ladders of great heights, standing for long periods of time, and performing his duties under prolonged periods of nervous strain are causes for determination of physical incompetency.

(2) An applicant for original registration must have a visual acuity either with or without glasses of at least 20/20 vision in one eye and at least 20/40 in the other. The applicant who wears glasses must also be able to pass a test without glasses of at least 20/40 in one eye and at least 20/70 in the other. Applicants for renewal, however, must have either with or without glasses visual acuity of at least 20/30 in one eye and at least 20/50 in the other. The applicant for renewal who wears glasses must also be able to pass a test without glasses of at least 20/50 in one eye and at least 20/100 in the other. The color sense for original and renewal applicants will be tested by means of a pseudo-isochromatic plate test, but any applicant who fails this test will be competent if he can pass the Williams lantern test or equivalent.

Dated: June 23, 1964.

A. T. MESCHTER,
Administrator.

[F.R. Doc. 64-7434; Filed, July 27, 1964; 8:47 a.m.]

Chapter IV—Federal Maritime Commission

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[Docket 1149; Tariff Circular No. 3; General Order 8, Part II, Amdt. 1]

PART 502—RULES OF PRACTICE AND PROCEDURE

PART 531—PUBLICATION, POSTING AND FILING OF FREIGHT AND PASSENGER RATES, FARES, AND CHARGES

Miscellaneous Amendments

On October 9, 1963, the Federal Maritime Commission published a notice of proposed rulemaking in the FEDERAL REGISTER (28 F.R. 10825), which notice set forth proposed amendments to §§ 502.68 and 531.23 and a proposed addition of a new § 531.24 to Title 46, CFR. Written comments on the proposals were solicited in the notice and were received by the Commission. These comments have been considered by the Commission, and certain of the comments have been adopted in whole or in part. Comments not discussed nor reflected herein have been considered by the Commission and found not justified or not material.

(1) The amendment to § 502.68 would allow the Commission a period of fifteen days to act on protests to tariff changes, instead of the ten presently provided by the rule. As stated in the notice of proposed rulemaking, "the ten-day period includes Saturdays, Sundays, and legal holidays, and frequently there is not enough time for staff evaluation of the protests and consideration by the Commission." Various comments were received on this proposed amendment. One suggestion was that the rule require service of a protest upon the public carrier simultaneously with the filing of a protest with the Commission. The Commission considers this suggestion impractical because some protests are hand carried to the Commission's offices in Washington, D.C., and simultaneous service on a carrier not having an office in Washington would be in most cases impossible. Another suggestion was that the rule provide that notice of the Commission's action with respect to protested matter be furnished to the carrier affected at least forty-eight hours prior to the time the tariff goes into effect. This suggestion would reduce the time the Commission has for acting in suspension cases, and it cannot therefore be adopted. A third suggestion was that the rule provide more time than that proposed for filing protests, because of the difficulty experienced by the parties in Hawaii, Alaska, Puerto Rico, and Guam in preparing and executing protests in the time allowed. The Commission recognizes that persons not located in the continental United States may encounter time problems, and the rule adopted herein alleviates this difficulty by requiring that protests be filed at least thirteen days prior to the effective date of a tariff change which itself has been filed on the statutory thirty days' notice.

A final suggestion was that the Commission adopt a "posting date system" rule for the publication of tariff changes. Under this rule, the thirty days' statutory notice requirement would be retained, but a carrier would have the option of publishing and filing a tariff change on forty-five days' notice. If this option were exercised, the carrier would publish a tariff change with a "posting date" which would be forty-five days in advance of the effective date. Protests to such tariff changes would then be due no later than twenty days after the posting date. The Commission considers this suggestion to be meritorious, and has utilized it with some modification. Under the rule herein adopted by the Commission, protests to tariff changes must be filed no later than twenty-five days previous to the date the change is to become effective, and replies to protests will be due on or before fifteen days previous to the effective date. The rule also provides that the Commission must give the filing carrier at least two days' notice prior to the stated effective date of the tariff of the Commission's action on protested matter.

(2) The purpose of the amendment to § 531.23 and the addition of § 531.24 is to (a) "lessen the burden of prospective protestants and * * * compensate them for the loss of five days in time allowed for filing protests * * *" and (b) "greatly expedite the process by which the general public becomes informed of proposed tariff changes." This would be accomplished by requiring a brief description of tariff changes in the letter of transmittal and by requiring copies of tariffs, in addition to those required by the Commission, in order that state, commonwealth, or territorial governors may be furnished same. One suggestion relating to § 531.23 was that the words "where appropriate" be added to the parenthetical sentence preceding the signature line, and this suggestion has been adopted in the final rule. There are occasions when a changed provision or rate might affect a substantial portion of a carrier's rate structure or a wide variety of its rates. Of course, in instances where there is no obvious burden to describe the